IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

W.A. No.2102 of 2002
and
W.A.M.P.No.3559 of 2002

The Director of Government
Examinations (Higher Secondary Examinations)
College Road, Nungambakkam,
Chennai - 6. ... Appellant

-vs-

1.Satish Kumar
rep. by father and natural guardian
R.Sampath
(R-1 declared as major vide as per
order of Court dt.26.6.2002 made in
WAMP No.3161/02)

2. Anna University,
rep. by its Registrar,
Guindy, Chennai ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against th
order dated 3.4.2001 made in W.P.No.12781 of 1994 on the file of thi
Court.

For Appellant : Mr.C.Thirumaran,
Govt.Advocate

For Respondents : No appearance for R1.
Mr.R.Rajasundarraman for
M/s G.M.Mani Associates for R2.

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The Director of Government Examinations (Higher Secondar
Examinations), aggrieved by the order of the learned single Judge date

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03.04.2001 made in W.P.No.12781 of 1994 modified by order date 22.06.2001, has filed the above writ appeal.

2. Though at the time of filing of the writ petition, the firs respondent herein-writ petitioner was a minor, during the pendency o the writ appeal, since he attained majority, by order dated 26.06.2002 the first respondent herein was declared as major. Though notice wa taken to the address given in the memorandum of grounds as well a another address at Bangalore given for service of notice on the firs respondent, the fact remains that till this date, in view of the fac that the full and correct address of the first respondent was no available to the appellant, the service could not be effected.

3. The second respondent is represented by counsel.

4. Heard the learned Government Advocate for appellant as well a the second respondent University.

5. The first respondent herein filed W.P.No.12781 of 1994 seekin to quash the proceedings of the Director of Government Examination (Higher Secondary Examinations), appellant herein - first responden before the learned single Judge in Na.Ka.No.1620/H2/94 dated 21.06.199 and 01.07.1994 and consequently prayed for a direction to revaluate an re-total the marks of the petitioner in the subjects of Physics an Mathematics in the Higher Secondary Examination taken by him i March/April, 1994 with Registration No.894202 and to issue the correc marks to him in respect of the said subjects.

6. According to the writ petitioner Satish Kumar, he is brilliant and outstanding student who studied in the Gill Adars Matriculation Higher Secondary School. He had passed the Matriculatio Examination (X Standard) in April 1992 by securing 949 marks Thereafter, he wrote the Higher Secondary Examination, for which he wa assigned the Registration No.894202. According to him, he was expectin atleast 95% in all subjects and had aspired to join the professiona course in Engineering. However, he was awarded 891 marks out of 1200 Immediately on receipt of the mark sheet, he had opted for re-totallin the marks in Tamil, Physics, Chemistry, Biology and Mathematic subjects and also paid the requisite fee. By proceedings date 21.06.1994, the Director of Government Examinations (Higher Secondar Examinations) has stated that on re-totalling the Physics answe papers, the same score has been obtained and by communication date 01.07.1994, the writ petitioner was informed that there is no change i the marks on re-totalling.

7. It is the further case of the writ petitioner that he made a application for admission to the first B.E. Course in the Ann University and obtained 94.6% of marks.

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8. In the course of hearing before the learned single Judge, th respondents therein conceded that fraud had been played in valuing th papers and informed the Court that the writ petitioner had obtaine 1126 marks out of 1200 marks. Before knowing the marks, he applied fo B.E. Course in the year 1994-95 and he was not accommodated. Howeve in view of the revised mark sheet which was supplied to him at a late point, he had been accommodated in the next year namely, 1995-96 i B.E. Electronics and Communication. It is further seen that afte completing his course, he was working at Bangalore and at the time o filing of the writ petition, he was employed in the United States ar earning $55,000/-.

9. The learned single Judge, after finding that because of th conduct of the respondents therein, the petitioner had lost on precious year, directed them to pay a sum of Rs.25,000/- (Rupees twent five thousand only) as damages within a period of three months. I subsequent order dated 22.06.2001 on the representation of the Ann University, the earlier direction was modified and Anna University wa exonerated from payment of damages and the first respondent therein the Director of Government Examinations (Higher Secondar Examinations), the appellant herein alone was asked to pay th compensation amount of Rs.25,000/-. The said direction is bein challenged in this writ appeal.

10. Learned Government Advocate has brought to our notice tha the appellant - the Director of Government Examinations (Highe Secondary Examinations) was not in any way responsible and it was onl due to the malpractice committed at the examination centre by changin the Registration Number, the writ petitioner was awarded lesser marks He also brought to our notice that the marks due to the writ petitione were ascertained after due enquiry and a corrected mark sheet wa issued to him even on 24.10.1994 itself. In those circumstances according to the learned Government Advocate, the learned single Judg is not justified in awarding damages.

11. It is true that the writ petitioner secured higher mark namely 1126 out of 1200. However, his mark sheet contained only 89 marks out of 1200. It is seen that in the enquiry, it was found ou that one Munner (Registration No.894189) who appeared for - examination in March 1994 has committed malpractice by changing th Registration Nos.894202 and 894196 in the answer papers of two othe students as Registration No.894189 in order to get higher marks. It i also the claim of the appellant that the learned single Judge failed t note that the malpractice would have been committed in the examinatio centre, namely the Gill Adarsh Matriculation Higher Secondary School Royapettah, Chennai - 14. It is also brought to our notice that th said malpractice committed by Munner came to light when he repeated th same in the Tamil Nadu Professional Courses Entrance Examination 199 held by Anna University. It is also not in dispute that as soon as th

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appellant came to know about the correct marks secured by the wri petitioner, a corrected mark sheet was issued to him on 24.10.199 itself. Though the writ petitioner had lost one year, the fact remain that in the subsequent year, he secured admission in B.E. Course base on the corrected mark sheet and he also completed his course and wa employed initially at Bangalore and finally settled in the Unite States. Taking note of the fact that the malpractice had bee committed at the examination centre by one Munner, candidate wit Registration No.894189, we are of the view that the learned singl Judge is not justified in awarding damages to the extent o Rs.25,000/-. It is made clear that we are not under-estimating th agony of the writ petitioner. At the same time, it is relevant to not that after conducting due enquiry and after ascertaining the correc marks of the writ petitioner and after entering the same, the correcte mark sheet was issued to him, without further delay.

12. Taking note of all these aspects and the present position o the writ petitioner, whose correct address and whereabouts not know and the appellant was not able to ascertain inspite of his bes efforts, while confirming the order of the learned single Judge, we ar of the view that the award of damages is not warranted. Accordingly the direction of the learned Single Judge, regarding payment of damage to the extent of Rs.25,000/- by the appellant herein-first responden before the learned single Judge is set aside. The writ appeal i allowed to the extent mentioned above. No costs. Consequentl connected miscellaneous petition is closed.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Director of Government
Examinations (Higher Secondary Examinations)
College Road, Nungambakkam,
Chennai - 6.

2. The Registrar, Anna University,
Guindy, Chennai.

1 CC TO M/S G.M. MANI ASSOCIATES, SR 44345

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